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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 , No. CV
10 Plaintiff,
11 v. **SCHEDULING ORDER**
12 ,
13 Defendant.
14

15 The Court enters the following Scheduling Order to govern the litigation in this
16 case:
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18 1. Mandatory Initial Discovery Pilot Project. This case is subject to the
19 Mandatory Initial Discovery Pilot Project (“MIDP”) implemented by General Order 17-
20 08 (D. Ariz. as amended Nov. 1, 2018). The parties must comply with the requirements
21 of the MIDP. If responses required by the MIDP have not been exchanged, they shall be
22 exchanged by _____.

23 2. Deadline for Joinder, Amending Pleadings, and Filing Supplemental
24 Pleadings. The deadline for joining parties, filing a motion to amend the pleadings, and
25 filing supplemental pleadings is **60 days** from the date of this Order.

26 3. Discovery Limitations.
27 a. Depositions shall be limited as provided by Rules 30 and 31 of the
28 Federal Rules of Civil Procedure. Notwithstanding any provisions of the Federal Rules of

1 Civil Procedure, non-party witnesses shall not be permitted to attend (either physically,
2 electronically, or otherwise) the deposition of any other witness in this case without an
3 order of this Court.

4 b. Each side may propound up to 25 interrogatories, including subparts,
5 25 requests for production of documents, including subparts, and 25 requests for
6 admissions, including subparts. The Federal Rules of Civil Procedure do not permit
7 “general” or “global” objections. The Court will therefore neither consider nor rule on
8 objections that are not specific to the individual interrogatory or request propounded.

9 c. If desired, a proposed Joint Stipulated Protective Order must be
10 lodged with the Court no later than _____.

11 4. MIDP Responses and Fact Discovery. The deadline for final
12 supplementation of MIDP responses and the completion of fact discovery, including
13 discovery by subpoena, shall be _____.¹ To ensure compliance with this
14 deadline, the following rules shall apply:

15 a. Depositions: All depositions shall be scheduled to start at least five
16 business days before the discovery deadline.

17 b. Written Discovery: All interrogatories, requests for production of
18 documents, and requests for admissions shall be served at least 45 days before the fact
19 discovery deadline.

20 c. Notwithstanding Local Rule of Civil Procedure 7.3, the parties may
21 mutually agree in writing, without Court approval, to extend the time provided for
22 discovery responses in Rules 33, 34, and 36 of the Federal Rules of Civil Procedure.
23 Such agreed-upon extensions, however, shall not alter or extend the deadlines set forth in
24 this Order.
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26 ¹ General Order 17-08 implements the MIDP and should be reviewed carefully. It
27 requires parties to timely supplement their MIDP responses as new information is
28 discovered. Absent extraordinary circumstances, parties that fail to timely disclose
relevant information will be precluded from using it in the case and may be subject to
other sanctions. Parties that unreasonably postpone disclosure of relevant information to
the end of the discovery period also will be subject to sanctions.

1 d. The parties must supplement all mandatory initial discovery
2 responses as well as responses to other discovery requests within the 30-days-from-
3 discovery-or-revelation deadline set by paragraph 8 of General Order 17-08.

4 5. Expert Disclosure and Discovery.

5 a. The party with the burden of proof on an issue shall provide full and
6 complete expert disclosures, as required by Rule 26(a)(2)(A)-(C) of the Federal Rules of
7 Civil Procedure, no later than _____.

8 b. The responding party (not having the burden of proof on the issue)
9 shall provide full and complete expert disclosures, as required by Rule 26(a)(2)(A)-(C) of
10 the Federal Rules of Civil Procedure, no later than _____.

11 c. The party with the burden of proof on the issue shall make its
12 rebuttal expert disclosures, if any, no later than _____. Rebuttal experts shall
13 be limited to responding to opinions stated by the opposing party's experts.

14 d. Disclosures under Rule 26(a)(2)(A) must include the identities of
15 treating physicians and other witnesses who will provide testimony under Federal Rules
16 of Evidence 702, 703, or 705, but who are not required to provide expert reports under
17 Rule 26(a)(2)(B). Rule 26(a)(2)(C) disclosures are required for such witnesses on the
18 disclosure deadlines set forth above. Rule 26(a)(2)(C) disclosures must identify not only
19 the subjects on which the witness will testify, but must also provide a summary of the
20 facts and opinions to which the witness will testify. The summary must be sufficiently
21 detailed to provide fair notice of what the witness will say at trial.²

22 e. No depositions of any expert witnesses shall occur before the
23 aforementioned disclosures concerning expert witnesses are made.

24 f. Expert depositions shall be completed no later than _____.

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26 ² In *Goodman v. Staples The Office Superstore, LLC*, 644 F.3d 817 (9th Cir. 2011), the
27 Ninth Circuit held that "a treating physician is only exempt from Rule 26(a)(2)(B)'s
28 written report requirement to the extent that his opinions were formed during the course
of treatment." *Id.* at 826. Thus, for opinions formed outside the course of treatment,
Rule 26(a)(2)(B) written reports are required. *Id.* For opinions formed during the course
of treatment, Rule 26(a)(2)(C) disclosures will suffice.

1 As with fact witness depositions, expert depositions shall be scheduled to commence at
2 least five calendar days before the deadline.

3 g. As stated in the Advisory Committee Notes to Rule 26 of the Federal
4 Rules of Civil Procedure (1993 amendment), expert reports under Rule 26(a)(2)(B) must
5 set forth “the testimony the witness is expected to present during direct examination,
6 together with the reasons therefor.” Full and complete disclosures of such testimony are
7 required on the dates set forth above. Absent extraordinary circumstances, parties will not
8 be permitted to supplement expert reports after these dates. The Court notes, however,
9 that it may permit parties to present opinions of their experts that were elicited by
10 opposing counsel during depositions of the experts. Counsel should depose experts with
11 this fact in mind.

12 h. Each side shall be limited to one retained or specifically employed
13 expert witness per issue.

14 6. Discovery Disputes.

15 a. Except as otherwise specified in this Paragraph 6, motions to compel
16 discovery shall be governed by Rule 37 of the Federal Rules of Civil Procedure and
17 Local Rule of Civil Procedure 37.1. In the course of written discovery, if a discovery
18 dispute arises and cannot be resolved despite sincere efforts to resolve the matter through
19 personal consultation (in person or by telephone), the parties shall jointly file (1) a joint
20 motion containing a written summary of the dispute, not to exceed three pages, with
21 explanation of the position taken by each party, and (2) a joint written certification that
22 counsel or the parties have attempted to resolve the matter through personal consultation
23 and sincere efforts as required by Local Rule of Civil Procedure 7.2(j). If the opposing
24 party has refused to personally consult, the party seeking relief shall describe the efforts
25 made to obtain personal consultation. Upon review of the joint motion, the Court may set
26 a telephonic conference or in-person proceeding, order supplemental briefing, or decide
27 the dispute by relying on the joint motion.
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1 b. If a discovery dispute arises in the course of a deposition and
2 requires an immediate ruling of the Court, the parties shall jointly telephone the Court to
3 request a telephone conference regarding the dispute.

4 c. Absent extraordinary circumstances, the Court will not entertain fact
5 discovery disputes after the deadline for completion of fact discovery, and will not
6 entertain expert discovery disputes after the deadline for completion of expert discovery.
7 Delay in presenting discovery disputes for resolution is not a basis for extending
8 discovery deadlines.

9 d. The parties are strongly encouraged to resolve discovery disputes
10 mutually and without expending judicial resources. To that end, and under the
11 appropriate circumstances, the Court will give serious consideration to the payment of
12 expenses as provided for in Rule 37(a)(5) of the Federal Rules of Civil Procedure.

13 7. Dispositive Motions.

14 a. Dispositive motions and motions challenging expert opinion
15 testimony shall be filed no later than _____.

16 b. No party or parties represented by at least one of the same counsel
17 shall file more than one motion for summary judgment under Rule 56 of the Federal
18 Rules of Civil Procedure without leave of the Court.

19 c. Local Rule of Civil Procedure 56.1 is suspended, except for
20 subsection (d). The Court will decide summary judgment motions under Federal Rule of
21 Civil Procedure 56 only. The parties may not file separate statements of facts or separate
22 controverting statements of facts, but instead must include all facts in the motion,
23 response, or reply itself. All evidence to support a motion or response must be attached
24 to the motion or response itself. The evidence may include only relevant excerpts rather
25 than full documents. Each citation to evidence to support a fact must include a pin
26 citation to at least one page that proves that fact. No evidence may be submitted with a
27 reply. Because no separate controverting statement of facts will be permitted, the
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1 responding party must carefully address all material facts raised in the motion. Likewise,
2 the reply must carefully address all material facts raised in the response. Any fact that is
3 ignored may be deemed uncontested.

4 d. Organizationally, immediately following the document containing
5 the motion and supporting memorandum, the moving party shall attach a numerical table
6 of contents. Each piece of evidence listed in the table of contents shall be attached to the
7 table of contents in numerical order. Immediately following the document containing the
8 response and supporting memorandum, the responding party shall attach an alphabetical
9 table of contents. Each piece of evidence listed in the table of contents shall be attached
10 to the table of contents in alphabetical order. By way of example, citations to exhibits
11 attached to the motion would be “(Ex. 1 at 7)” and citations to exhibits attached to the
12 response would be “(Ex. D at 3).”

13 e. A party desiring oral argument shall place the words “Oral
14 Argument Requested” immediately below the title of the motion pursuant to Local Rule
15 of Civil Procedure 7.2(f). Where oral argument does not aid the Court’s decision, the
16 Court may decline the request and decide the motion without holding oral argument. If
17 the request is granted, the Court will issue a minute entry informing the parties of the
18 argument date and time. The minute entry may specify particular issues that the Court
19 deems worthy of attention.

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21 8. Motions for Attorneys’ Fees. All motions for an award of attorneys’ fees
22 shall be accompanied by an electronic Microsoft Excel spreadsheet, to be emailed to the
23 Court and opposing counsel, containing an itemized statement of legal services with all
24 information required by Local Rule 54.2(e)(1). This spreadsheet shall be organized with
25 rows and columns and shall automatically total the amount of fees requested to enable the
26 Court to efficiently review and recompute, if needed, the total amount of any award after
27 disallowing any individual billing entries. This spreadsheet does not relieve the moving
28 party of its burden under Local Rule 54.2(d) to attach all necessary supporting

1 documentation to its motion. A party opposing a motion for attorneys' fees shall email to
2 the Court and opposing counsel a copy of the moving party's spreadsheet, adding any
3 objections to each contested billing entry (next to each row, in an additional column) to
4 enable the Court to efficiently review the objections. This spreadsheet does not relieve
5 the non-moving party of the requirements of Local Rule 54.2(f) concerning its responsive
6 memorandum.

7 9. Good Faith Settlement Talks. All parties and their counsel shall meet in
8 person and engage in good faith settlement talks no later than _____. Upon
9 completion of such settlement talks, and in no event later than five working days after the
10 deadline set forth in the preceding sentence, the parties shall file with the Court a joint
11 report on settlement talks executed by or on behalf of all counsel. The report shall inform
12 the Court that good faith settlement talks have been held and shall report on the outcome
13 of such talks. The parties shall indicate whether assistance from the Court is needed in
14 further settlement efforts. The Court will set a settlement conference before a Magistrate
15 Judge upon request of all parties. The parties shall promptly notify the Court if
16 settlement is reached.

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18 10. Briefing Requirements.

19 a. All memoranda filed with the Court shall comply with Local Rule of
20 Civil Procedure 7.1(b) requiring text no smaller than 13 point font in text and footnotes
21 for proportional font sizes, and no smaller than 10 pitch in text and footnotes for fixed-
22 pitch type sizes.

23 b. Citations in support of any assertion in the text shall be included in
24 the text, not in footnotes.

25 c. A party moving for an extension of time, enlargement of page
26 limitations, leave to amend, or leave to file a document under seal shall indicate in the
27 motion whether the non-movant opposes the request and intends to file a written
28 response. If the non-movant has refused to provide a position on the request, the moving

1 party shall describe the efforts made to consult.

2 11. Pre-motion Conference.

3 If the parties or the Court believe it may be assistive, the Court may hold a
4 conference with the parties before motions for summary judgment are filed. The purpose
5 of the conference would be to narrow issues and focus the briefing. In those cases, the
6 parties shall exchange two-page letters describing any anticipated motions for summary
7 judgment and responses, identifying the issues and claims on which summary judgment
8 will be sought, and the basis for the motions and response. The deadline for the parties to
9 file these letters with the Court shall be 60 days prior to the dispositive motion deadline.
10 Once filed, the parties shall call the Court the same day to schedule a time for a pre-
11 motion Conference.

12 12. Deadline for Notice of Readiness for Final Pretrial Conference. The
13 Plaintiff(s) shall notify the Court that the parties are ready for scheduling a Final Pretrial
14 Conference pursuant to Rule 16(e) of the Federal Rules of Civil Procedure. The
15 Plaintiff(s) shall file and serve this notice within seven days after the dispositive motion
16 deadline if no dispositive motions are pending on that date. If dispositive motions are
17 pending, Plaintiff(s) shall file and serve such notice within seven days after the resolution
18 of the dispositive motions. The Court will then issue an Order Setting Final Pretrial
19 Conference.
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21 13. The Deadlines Are Real. The Court will, absent a showing of good cause,
22 enforce the deadlines set forth in this Order, and the parties should plan their litigation
23 activities accordingly. Failure to meet any of the deadlines in this Order or in the Federal
24 or Local Rules of Civil Procedure without substantial justification may result in
25 sanctions, including dismissal of the action or entry of default.

26 14. Requirement for Paper Courtesy Copies. A paper courtesy copy of
27 dispositive motions and any responses or replies thereto shall be either postmarked and
28 mailed to the judge or hand-delivered *to the judge's mail box* located in the Clerk's office

1 by the next business day after the electronic filing. Please do not attempt to deliver
2 documents to the Judge's chambers. A copy of the face page of the Notice of Electronic
3 Filing shall be appended to the last page of the courtesy copy. Courtesy copies of
4 documents too large for stapling must be bound with a metal prong fastener at the top
5 center of the document or submitted in three-ring binders.
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8 Dated this ____ day of _____, _____.
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